



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Office of Audit Services

Region IX  
50 United Nations Plaza, Room 171  
San Francisco, CA 94102

CIN: A-09-00-00104

March 1, 2001

Debra Logan, Corporate Director  
PacifiCare of California  
3120 West Lake Center Drive  
Santa Ana, California 92799-5186

Dear Ms. Logan:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' report titled "Audit of Medicare Payments to PacifiCare of California for Beneficiaries Classified as Institutionalized During the Period October 1, 1996 Through December 31, 1999."

Final determinations as to actions taken on all matters reported will be made by the HHS office named below. We request that you respond to that office within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services' reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.) As such, within 10 business days after the final report is issued, it will be posted on the world wide web at <http://www.hhs.gov/progorg/oig>.

To facilitate identification, please refer to Common Identification Number (CIN) A-09-00-00104 in all correspondence relating to this report.

Sincerely,

Lori A. Ahlstrand  
Regional Inspector General  
for Audit Services

Enclosures

Direct Reply to:

Director, Office of Managed Care  
Health Care Financing Administration, HHS  
7500 Security Boulevard, Room 33-02-01  
Baltimore, Maryland 21244-1850

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF MEDICARE PAYMENTS TO  
PACIFICARE OF CALIFORNIA  
FOR BENEFICIARIES CLASSIFIED AS  
INSTITUTIONALIZED DURING THE  
PERIOD OCTOBER 1, 1996 THROUGH  
DECEMBER 31, 1999**



**MARCH 2001  
A-09-00-00104**

# ***OFFICE OF INSPECTOR GENERAL***

OIG Website: [www.dhhs.gov/progorg/oig](http://www.dhhs.gov/progorg/oig)

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## ***Office of Audit Services***

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

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The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

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The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units which investigate and prosecute fraud and patient abuse in the Medicaid program.

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**Department of Health and Human Services**

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REGION IX**

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PACIFICARE OF CALIFORNIA  
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CIN: A-09-00-00104

March 1, 2001

Debra Logan, Corporate Director  
PacifiCare of California  
3120 West Lake Center Drive  
Santa Ana, California 92799-5186

Dear Ms. Logan:

This report provides you with the results of our audit of Medicare payments to PacifiCare of California (PacifiCare) for beneficiaries classified as institutionalized during the period October 1, 1996 through December 31, 1999.

From a statistical sample of 100 monthly payments to PacifiCare, we identified 4 monthly payments for 4 different beneficiaries who were inappropriately classified as institutionalized. These payments included Medicare overpayments totaling \$1,751. We identified additional overpayments totaling \$12,527 for three of these beneficiaries for months prior and/or subsequent to the months included in our sample, resulting in total Medicare overpayments of \$14,278.

PacifiCare provided documentation indicating that, prior to our review, they had submitted adjustments for \$7,719 of the \$14,278. As a result of our review, PacifiCare submitted additional adjustments for the remaining \$6,559.

We recommend that PacifiCare coordinate with the Health Care Financing Administration (HCFA) to ensure that adjustments are processed for all four beneficiaries, totaling \$14,278 in overpayments. In its response to our draft report, PacifiCare stated that it reported the adjustments to the HCFA Regional Office in San Francisco.

We also discuss two items in the OTHER MATTERS section. The first relates to the "Status of Resolution Actions on Prior Audit." In our draft, we reported that PacifiCare had not completed final resolution action on a prior audit; specifically, that no documentation was provided to the action official or to us to support the assertion that the resolution action had been completed. PacifiCare responded that it believed that the statement was incorrect. However, upon further discussion, PacifiCare acknowledged that specific documentation had not been submitted.

The second item relates to "Enhanced Payments for the Month of January 1998." Our review disclosed a possible problem with the way PacifiCare implemented a policy change issued by HCFA relating to payments for January 1998. We indicated that the issue would be the subject of a future audit. PacifiCare stated that it would respond to any findings and recommendations that may be reported in the future audit. PacifiCare's response is included in its entirety in the APPENDIX to this report.

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## INTRODUCTION

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### BACKGROUND

PacifiCare is a Health Maintenance Organization (HMO) which is part of PacifiCare Health Systems, Inc.; a health care services company that provides managed care for employer groups and Medicare beneficiaries in nine states and Guam serving over 3.5 million members (972,800 Medicare members). Approximately 2.2 million members are served in California with almost 600,000 of those being Medicare members.

An HMO is a legal entity that provides or arranges health services for its enrollees. Under the Medicare program, HMOs contract with HCFA to provide health care services to beneficiaries. HCFA makes monthly advance payments to HMOs at the per capita rate set for each beneficiary. Enhanced payments are made each month on behalf of certain high-cost categories of beneficiaries, such as those residing in a nursing home or other qualifying institution. HMOs identify and report to HCFA, on a monthly basis, beneficiaries who meet the definition of institutionalized status.

In order to be eligible for this enhanced institutional payment, the beneficiary must have been a resident of a qualifying facility for a minimum of 30 consecutive days. This period includes, as the 30<sup>th</sup> day, the last day of the month prior to the month for which the higher institutional rate is paid. For example, for February, the 30 days would be January 2 through January 31. This qualifying period of residency must be satisfied each month in order for the HMO to be paid the higher institutional rate.

In a 1993 Region IX letter, HCFA specified skilled nursing facilities, swing-bed facilities, intermediate care facilities, sanatoriums, rest homes, convalescent homes, long-term care hospitals, or domiciliary homes as the types of institutions that qualify for enhanced payment. Operational Policy Letter #54, issued by HCFA on July 24, 1997, revised the definition of institutionalized status to be effective for the months beginning after December 1997. Beginning in 1998, HCFA limited institutionalized status to enrolled beneficiaries who were residents of specific types of Medicare or Medicaid certified institutions including skilled nursing facilities, intermediate care facilities for the mentally retarded, and psychiatric, rehabilitation, long-term care, or swing bed hospitals. Both the independent and assisted living portions of facilities do not qualify for institutional status under this revised definition. Our audit included sample items from both periods. We considered the change in the criteria for a qualifying institution when applicable. The requirement for 30 consecutive days remained the same, only the types of qualifying facilities were changed.

### OBJECTIVE, SCOPE, AND METHODOLOGY

Our audit was performed in accordance with generally accepted government auditing standards. The objective was to determine if enhanced Medicare payments received by PacifiCare were appropriate

for beneficiaries reported as institutionalized during the period October 1, 1996 through December 31, 1999.

Our review of PacifiCare's internal controls was limited to evaluating controls and procedures related to classifying and reporting enrolled institutionalized beneficiaries to HCFA during our audit period.

We selected a statistical sample of 100 monthly payments from a universe of 176,894 monthly Medicare payments to PacifiCare. These payments were for beneficiaries classified by PacifiCare as institutionalized during the period October 1, 1996 through December 31, 1999. PacifiCare provided us with the names and addresses of the institutions where each of the selected beneficiaries resided during the 30-day period prior to the payment month selected for review. The institutional status for each beneficiary was determined either by reviewing the facility's records or verifying admission and/or discharge dates by telephone. We discussed any exceptions noted with PacifiCare personnel to determine if additional information was available.

In determining the overpayments, we calculated the difference between (1) the actual amount paid to PacifiCare by Medicare for the month selected, and (2) the amount Medicare should have paid PacifiCare based on the results of our audit.

Our audit was conducted from June through November 2000 with field work performed at PacifiCare's offices in Cypress, California, and the 77 institutions we visited throughout southern California.

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## **FINDINGS AND RECOMMENDATION**

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We selected a statistical sample of 100 payments from a universe of 176,894 monthly payments made to PacifiCare by HCFA. These payments were for beneficiaries classified by PacifiCare as institutionalized during the period October 1, 1996 through December 31, 1999. We identified four monthly payments for four different beneficiaries who were inappropriately classified as institutionalized. We identified additional overpayments for three of these beneficiaries for months prior and/or subsequent to the months included in our sample, resulting in total Medicare overpayments of \$14,278. PacifiCare provided documentation indicating that they had submitted adjustments to HCFA prior to our review for \$7,719 of the \$14,278. These adjustments were for two of the four beneficiaries. As a result of our review, PacifiCare submitted adjustments to HCFA for the remaining \$6,559. The following schedule lists by beneficiary the \$14,278 in Medicare overpayments.

<b>Sample Information</b>					
<u>Beneficiary</u>	<u>Sample Month</u>	<u>Amount Paid<sup>1</sup></u>	<u>Amount Due<sup>2</sup></u>	<u>Overpayment</u>	<u>Total Overpayment<sup>3</sup></u>
A	02/1997	\$1,106	\$644	\$462	\$ 462
B	11/1998	\$1,119	\$667	452	5,437
C	03/1998	\$1,007	\$588	419	2,931
D	11/1998	\$1,005	\$587	<u>418</u>	<u>5,448</u>
<b>TOTAL</b>				<b><u>\$1,751</u></b>	<b><u>\$14,278</u></b>

<sup>1</sup> This is the actual amount paid to PacifiCare for the sample month selected for review.

<sup>2</sup> This is the amount that should have been paid to PacifiCare based upon our audit results.

<sup>3</sup> This is the amount of overpayments for the sample month and the months prior and/or subsequent to that sample month. Due to rounding of the amount paid each month and a change in the amount paid in different calendar years, this amount is not the sample-month amount multiplied by the total number of months.

## **BENEFICIARY A**

The sample month for Beneficiary A was February 1997. The required 30-day period to qualify for institutionalized status and the enhanced payment for the month was January 2 through January 31, 1997. We found that the beneficiary had been discharged to a family member's residence on January 29, 1997. The beneficiary was then re-admitted on February 1, 1997. The facility had provided PacifiCare with this information in March 1997. However, PacifiCare did not adjust the institutional status for this beneficiary since the beneficiary had been re-admitted less than 15 days after the discharge date.

Operational Policy Letter #54, issued by HCFA on July 24, 1997, states that HCFA will continue to pay the institutionalized rate while an enrolled member is temporarily absent from the facility for hospitalization or therapeutic leave if a bed is being held and paid for on behalf of the member. Temporary interruptions (less than 15 days) for medical necessity will be counted toward the 30-day requirement.

PacifiCare's application of the temporary absence rule for this beneficiary was not correct. Since the beneficiary had been sent home, a bed was not being held and paid for on the beneficiary's behalf. Therefore, PacifiCare was not entitled to receive the enhanced institutional payment for February 1997, our sample month. This was discussed with PacifiCare personnel who agreed with our finding and submitted an adjustment to HCFA. The overpayment amount for this month was \$462.



## **BENEFICIARY B**

The sample month for Beneficiary B was November 1998. The required 30-day period to qualify for institutionalized status and the enhanced payment for the month was October 2 through October 31, 1998. The facility had returned the log sheet for October 1998 to PacifiCare indicating that this beneficiary had been a continuous resident in a qualifying portion of the facility. However, based on our review, we determined that the beneficiary was a resident of the independent living portion of the facility from January 1998 through November 1999.

Independent living does not meet the criteria for institutional status. Therefore, PacifiCare was not entitled to the enhanced institutional payment for November 1998. Additionally, we determined that PacifiCare inappropriately received enhanced payments for Beneficiary B for the months of February 1998 through January 1999, a total of 12 months. PacifiCare received a Medicare overpayment of \$452 for the sample month and total overpayments of \$5,437 for the 12 months.

This was discussed with PacifiCare personnel who agreed with our finding. They provided documentation indicating they had submitted adjustments to HCFA on January 28, 1999, removing the institutional status for this beneficiary from September 1998 through January 1999, a portion of the period identified above, for a total of \$2,271. At the time of our review, HCFA Region IX indicated that these adjustments had not been processed. As a result of our audit, PacifiCare submitted additional adjustments removing the institutional status for this beneficiary from February 1998 through August 1998, for a total \$3,166.

## **BENEFICIARY C**

The sample month for Beneficiary C was March 1998. The required 30-day period to qualify for institutionalized status and the enhanced payment for the month was January 30 through February 28, 1998. The facility had returned the log sheets for both January and February 1998 indicating that the beneficiary had been a continuous resident in a qualifying portion of the facility. However, based on our review, we determined that the beneficiary had been a resident of the assisted living portion of the facility from January 1 through July 20, 1998.

Assisted living does not meet the criteria for institutional status. Therefore, PacifiCare was not entitled to the enhanced institutional payment for March 1998. Additionally, we determined that PacifiCare inappropriately received enhanced payments for Beneficiary C for the months of February through August 1998, a total of 7 months. PacifiCare received a Medicare overpayment of \$419 for our sample month and total overpayments of \$2,931 for the 7 months. This was discussed with PacifiCare personnel who agreed with our finding and submitted adjustments to HCFA.

## **BENEFICIARY D**

The sample month for Beneficiary D was November 1998. The required 30-day period to qualify for institutionalized status and the enhanced payment for the month was October 2 through October 31, 1998. The facility had returned the log sheet for October 1998 to PacifiCare indicating that this

beneficiary had been a continuous resident in a qualifying portion of the facility. However, based on our review, we determined that the beneficiary was a resident of the independent living portion of the facility from January 1998 through December 1999.

Independent living does not meet the criteria for institutional status. Therefore, PacifiCare was not entitled to the enhanced institutional payment for November 1998. Additionally, we determined that PacifiCare inappropriately received enhanced payments for Beneficiary D for the months of February 1998 through February 1999, a total of 13 months. PacifiCare received a Medicare overpayment of \$418 for the sample month and total overpayments of \$5,448 for the 13 months.

This was discussed with PacifiCare personnel who agreed with our finding. They provided documentation indicating they had submitted adjustments totaling \$5,448 to HCFA on March 30, 1999, removing the institutional status for this beneficiary from February 1998 through February 1999. At the time of our review, HCFA Region IX indicated that these adjustments had not been processed.

## **RECOMMENDATION**

PacifiCare should coordinate with HCFA to ensure that adjustments for all four beneficiaries, totaling \$14,278 in overpayments, are processed.

## **PACIFICARE'S COMMENTS**

PacifiCare responded to our draft indicating that the adjustments had already been reported to the HCFA Regional Office in San Francisco. PacifiCare's response has been included in its entirety in the APPENDIX to this report.

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# **OTHER MATTERS**

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## **STATUS OF RESOLUTION ACTIONS ON PRIOR AUDIT**

A prior audit (CIN A-05-97-00013) covering October 1, 1994, through September 30, 1996, included recommendations that PacifiCare refund specific overpayments of \$9,700 and "to review the balance of the institutionalized beneficiary universe to identify and refund additional overpayments" estimated to be at least \$398,084. Although PacifiCare provided documentation indicating that adjustment actions for the \$9,700 had been submitted to HCFA, final resolution action has not been completed by HCFA. In their letter to the action official, PacifiCare indicated their position in relation to the \$398,084 was that "nearly all of the overpayments identified by the auditors relate to overbillings already reported by PacifiCare..." and that "it is HCFA's responsibility to make the appropriate adjustment to the member file and to the payment." However, no documentation was provided to the action official or to us to support the assertion that the overpayments had already been reported. PacifiCare should continue to coordinate with HCFA to ensure that final resolution action is completed.

## **PACIFICARE'S COMMENTS**

PacifiCare responded to our draft indicating that it believed that the statement "no documentation was provided to the action official or to us to support the assertion that the overpayments had already been reported" was incorrect. PacifiCare then stated that "it reported and submitted the identified overpayment on overbill reports to Region IX according to HCFA stated procedures." PacifiCare's response has been included in its entirety in the APPENDIX to this report.

## **OIG'S RESPONSE**

PacifiCare's comments do not fully address this matter. When we asked to see the documentation that had been communicated, we were given a copy of the letter to the Action Official. As stated above, that letter asserted that the overpayments related to overbillings that had already been reported by PacifiCare. The prior audit recommended that PacifiCare "review the balance of the institutionalized beneficiary universe to identify and refund additional overpayments" estimated to be at least \$398,084. The response to the draft of the prior audit states:

PacifiCare believes that the appropriate corrective action that should result from the Audit is for HCFA to make the retroactive adjustments to all of the overbilled members, which PacifiCare has already reported or which were identified in the Audit. If this were done, HCFA would recoup up to 50% of all the estimated overpayments projected by the auditors.

The letter to the action official cites the recommendation that PacifiCare identify and refund overpayments, submit adjustments to HCFA, and then verify that these adjustments are correctly processed. The letter then states:

PacifiCare believes that this corrective action is misplaced. ... Nearly all of the overpayments identified by the auditors relate to overbillings already reported by PacifiCare, and, as we explained in the March 20, 1998 response [to the draft report] to the auditors, any other overbillings are statistically insignificant. It is HCFA's responsibility to make the appropriate adjustment to the member file and to the payment.

After receiving the response, we had additional discussions with PacifiCare. During these discussions, PacifiCare acknowledged that specific documentation had not been submitted. As stated in our report, no documentation was provided to the action official or to us to support the assertion that the overpayments had already been reported. PacifiCare should coordinate with HCFA to ensure that final resolution action is completed.

## **ENHANCED PAYMENTS FOR THE MONTH OF JANUARY 1998**

Based upon our audit work and our discussions with HCFA officials, it appears that there may have been a problem with the implementation of Operational Policy Letter #54 which changed the definition of an institution for all institutional payment rate adjustments made for those months beginning after December 1997. Based upon documentation provided by PacifiCare, we have determined that PacifiCare may have received institutional payments for January 1998 for some

beneficiaries not meeting the revised institutional requirements. These potential overpayments will be the subject of a future audit.

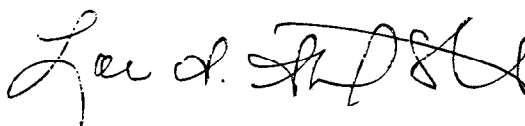
**PACIFICARE'S COMMENTS**

PacifiCare stated that it will respond to any findings and recommendations regarding such payment as part of such future audit. PacifiCare's response has been included in its entirety in the APPENDIX to this report.

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Final determinations as to actions taken on all matters reported will be made by the HHS office named below. We request that you respond to that office within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Ahlstrand". The signature is fluid and cursive, with the first name "Lori" being more prominent.

Lori A. Ahlstrand  
Regional Inspector General  
for Audit Services

**Direct Reply to:**

Director, Office of Managed Care  
Health Care Financing Administration, HHS  
7500 Security Boulevard, Room 33-02-01  
Baltimore, Maryland 21244-1850

## **APPENDIX**

3120 Lake Center Drive  
Santa Ana, California 92704-6917  
Tel (714) 825-5200

January 17, 2001

Lawrence Frelot  
Regional Inspector General for Audit Services  
Region IX Office of Inspector General  
Department of Health and Human Services  
50 United Nations Plaza, Rm. 171  
San Francisco, CA 94102-4912

RE: CIN-A-09-00-00104 "Audit of Medicare Payments to PacifiCare of California for Beneficiaries Classified as Institutional for the Period October 1, 1996 through December 31, 1999"

Dear Mr. Frelot:

This is in response to the November 20, 2000 request from the Office of Inspector General for the Department of Health and Human Services ("the OIG") to provide comments on the Draft Audit Report on Medicare Payments Made to PacifiCare of California for Beneficiaries Classified as Institutional for the Period October 1, 1996 through December 31, 1999, (CIN-A09-00-00104) (the "Draft Report"). As stated in our letter dated December 20, 2000, an extension until January 20, 2001 to respond to the Draft Report was requested.

The auditors reviewed 100 payments from a universe of 176,894 monthly payments made to PacifiCare by HCFA for beneficiaries classified by PacifiCare as institutionalized during the period October 1, 1996 through December 31, 1999. The audit identified four monthly payments for four different beneficiaries who were inappropriately classified as institutionalized. An additional overpayment for three of these beneficiaries for months prior and/or subsequent to the months included in the sample, resulting in total Medicare overpayments of \$ 14,278.

The Draft Report identified one recommendation for addressing the overpayment. The OIG's recommendation and PacifiCare's response are set forth below:

**Recommendation:** *PacifiCare should coordinate with HCFA to ensure that adjustments for all four beneficiaries, totaling \$ 14,278 in overpayments, are processed.*

**PacifiCare Response:** Prior to the Audit, PacifiCare had identified and reported overpayments totaling \$ 7, 719 (for two of the four beneficiaries) to the HCFA Regional Office in San Francisco

(Region IX). The remaining overpayment totaling \$ 6,559 (for the other two beneficiaries) has been reported to the HCFA Region IX Office.

The Draft Report also contains a section entitled "Other Matters". Under the "Other Matters" section, the OIG makes the following statement regarding the status of resolution actions on a prior audit of institutionalized members:

*No documentation was provided to the action official or to us to support the assertion that the overpayments had already been reported. PacifiCare should continue to coordinate with HCFA to ensure that final resolution action is completed.*

**PacifiCare Response:** PacifiCare believes that the above statement is incorrect. As explained to the OIG auditors, PacifiCare reported and submitted the identified overpayment on overbill reports to Region IX according to HCFA stated procedures.

Under the "Other Matters" section, the OIG also states that enhanced payments for the month of January 1998 will be the subject of a future audit. PacifiCare will respond to any findings and recommendations regarding such payment as part of such future audit.

PacifiCare would like to thank you the OIG for the additional 30 days to respond to the Draft Report. If you should have any questions regarding the above, please do not hesitate to contact me at the address on this stationary or by telephone (714) 825-5464.

Sincerely,



Debra Logan  
Corporate Director  
Membership Accounting Services

